REMARKS

I. Disposition Of The Claims

Claims 1-40 and 48-51 are pending. Claims 5-6, 11-40, and 49-51 were withdrawn from consideration. Final Office Action, dated March 25, 2005, p. 2. Claims 41-47 were previously canceled. Claims 1-4, 7-10 and 48 stand rejected.

Applicants' representative thanks Examiner Truong for the helpful and courteous interview of November 28, 2005. During the examiner interview, the examiner confirmed the indication in the Advisory Action of October 18, 2005, that claims 1-4 and 48 as amended in the response after final filed September 26, 2005, are allowable. Applicants proposed the amendments herein to claims 7-10 as warranting favorable action. The substance of the interview is set forth in more detail below. Applicants thereby comply with 37 C.F.R. § 1,133(b).

The withdrawn claims 5-6 should be rejoined. MPEP §§ 803.02; 821.04. It is also submitted that no serious burden would prevent examining such claims.

Claims 1, 3-4, and 7-10 have been amended as shown. Support is in the specification as filed and highlighted below where relevant.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing the examined claims in condition for allowance. It is submitted that the proposed amendments of the amended claims do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, it is respectfully submitted that the entering of the Amendment would allow a reply to the final rejections and would place the application in condition for allowance.

Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

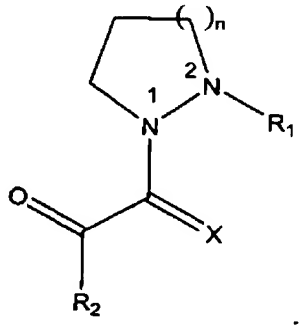
This Amendment repeats the amendments and arguments presented in the prior response after final filed September 26, 2005. This Amendment further contains the amendments to claims 7-10 discussed during the November 28 Examiner interview.

II. Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-4, 7-10, and 48 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Final Office Action, p. 2.

A. The esters

Unspecified claims from claims 1-4, 7-10, and 48 were rejected under 35 U.S.C. § 112, second paragraph, presumably for reciting "ester thereof." Final Office Action, pp. 2-3. It is believed that the Examiner would agree (1) that the term "ester" has meaning to one of ordinary skill in the art and (2) that one of ordinary skill in the art would be able to determine whether or not a particular compound fell within the ambit of the structural compound of formula I as recited, e.g., in claim 1, i.e.,



Given (1)-(2), it seems reasonable to conclude that one of ordinary skill in the art would have been reasonably apprised of which compounds were an "ester thereof" as recited, e.g., in claim 1.

Because the meaning of "ester thereof" and thus each claim is discernible, each claim avoids a rejection on indefiniteness grounds. Accordingly, this rejection should be withdrawn.

B. "carbocycle," "heteroaryl," and "heterocycle"

Unspecified claims from claims 1-4, 7-10, and 48 were rejected under 35 U.S.C. § 112, second paragraph, for reciting "carbocycle," "heteroaryl," and "heterocycle." Final Office Action, pp. 2-3. The present version of the claims avoids these rejections.

Specifically, the following language was added at the end of claims 1, 4, and 7:

> , wherein the heteroaryl, carbocycle, and heterocycle are selected from cyclopentyl, cyclohexyl, cycloheptyl, phenyl, benzyl, naphthyl, indenyl, azulenyl, fluorenyl, anthracenyl, indolyl, isoindolyl, indolinyl, benzofuranyl, benzothiophenyl, indazolyl, benzimidazolyl, benzthiazolyl, tetrahydrofuranyl, tetrahydropyranyl, pyridyl, pyrrolyl, pyrrolidinyl, pyridinyl, pyrimidinyl, purinyl, quinolinyl, isoquinolinyl, tetrahydroquinolinyl, quinolizinyl, furyl, thiophenyl, imidazolyl, oxazolyl, benzoxazolyl, thiazolyl, isoxazolyl, isotriazolyl, oxadiazolyl, triazolyl, thiadiazolyl, pyridazinyl, pyrimidinyl, pyrazinyl, triazinyl, trithianyl, indolizinyl, pyrazolyl, pyrazolinyl, pyrazolidinyl, thienyl, tetrahydroisoquinolinyl, cinnolinyl, phthalazinyl, quinazolinyl, quinoxalinyl, naphthyridinyl, pteridinyl, carbazolyl, acridinyl, phenazinyl, phenothiazinyl, phenoxazinyl, adamantly, pyrrole groups, thiophene groups, pyridine groups, and isoxazole groups[.]

Support for the present amendment is in the specification as filed, e.g., page 34, lines 12-13 and page 35, lines 14-29. No new matter has been added. Grouping heteroaryl, carbocycle, and heterocycle in one paragraph saved space. It is submitted that one of ordinary skill in the art would be able to determine the members belonging to each grouping.

Because the present version of the claims avoids these rejections, these rejections should be withdrawn.

C. "thiocarbonyl" and "carbonyl"

Unspecified claims from claims 1-4, 7-10 and 48 were rejected under 35 U.S.C. § 112, second paragraph, for reciting "thiocarbonyl" and "carbonyl." Final Office Action, pp. 2-3. This

language has been deleted from each of claims 1, 4, and 7. Thus, the present version of the claims avoids this rejection, which should be withdrawn.

D. "affecting a neuronal activity"

Claims 7-10 were rejected under 35 U.S.C. § 112, second paragraph, for reciting "affecting a neuronal activity." Final Office Action, pp. 2-3. This rejection has been obviated by removing the phrase from the claims, as agreed during the November 28, 2005, interview.

III. Rejections Under 35 USC § 112, First Paragraph

A. Claims 1-4, 7-10 and 48

Claims 1-4, 7-10, and 48 were rejected under 35 U.S.C. § 112, first paragraph, because the specification does not reasonably provide enablement for "solvates" of the compound of formula I. Final Office Action, pp. 4-5. The present version of the claims avoids this rejection, because claims 1, 3-4, and 7 were amended to delete the term "solvate." Thus, the rejection should be withdrawn.

B. Claims 7-10

Claims 7-10 were rejected under 35 U.S.C. § 112, first paragraph, because the specification does not reasonably provide enablement for "affecting a neuronal activity." This rejection has been obviated by removing the phrase from the claims, as agreed during the November 28, 2005 interview.

IV. Non-Statutory Double Patenting Rejections

Claims 1-4, 7-10 and 48 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,417,189. Final Office Action, p. 6. The terminal disclaimers filed on September 26, 2005, avoid this issue. Thus, the present rejection should be withdrawn.

V. Conclusion

It is submitted that the present application is now in condition for allowance. Favorable reconsideration and reexamination of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned attorney by telephone, if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date 1-DEC-2005

By _____

FOLEY & LARDNER LLP
Customer Number: 29728
Telephone: (202) 295-4163
Facsimile: (202) 672-5399

Rouget F. Henschel
Attorney for Applicants
Registration No. 39,221

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 CFR § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.